

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Sep 21, 2023**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

MICHAEL J. HANSON,

Plaintiff,

v.

SUN LIFE FINANCIAL SERVICES  
COMPANY, INC., a foreign  
corporation; SUN LIFE ASSURANCE  
COMPANY OF CANADA, a foreign  
corporation.

Defendants.

No. 2:22-cv-00306-MKD

STIPULATED PROTECTIVE ORDER

**ECF No. 33**

Before the Court is the parties' Stipulated Motion for Entry of Protective Order, ECF No. 33. The parties stipulate to the entry of a protective order governing discovery into confidential or private information. The Court has reviewed the record and the motion and finds good cause for the entry of a protective order.

1 Accordingly, **IT IS ORDERED:**

2 1. The parties' Stipulated Motion for Entry of Protective Order, **ECF**  
3 **No. 33**, is **GRANTED**.

4 2. Discovery shall be governed by a protective order as follows:

5 1. PURPOSES AND LIMITATIONS

6 Discovery in this action is likely to involve production of confidential or  
7 private information for which special protection may be warranted. Accordingly,  
8 the parties hereby stipulate to and petition the court to enter the following  
9 Stipulated Protective Order. The parties acknowledge that this agreement is  
10 consistent with the Local Rules and Federal Rules of Civil Procedure. It does not  
11 confer blanket protection on all disclosures or responses to discovery, the  
12 protection it affords from public disclosure and use extends only to the limited  
13 information or items that are entitled to confidential treatment under the applicable  
14 legal principles, and it does not presumptively entitle parties to file confidential  
15 information under seal.

16 2. "CONFIDENTIAL" MATERIAL

17 "Confidential" material shall include documents, tangible things, or  
18 electronic files produced or otherwise exchanged by a party or non-party that relate  
19 to Plaintiff's employment with Spokane Public Schools, his separation from  
20 employment with Spokane Public Schools, and/or his medical records and history.

1 The term “Confidential” shall also include information that could be harmful to the  
2 business or operations of any party. This includes but is not limited to trade secret  
3 or other confidential research, development, financial, customer related data or  
4 other commercial information.

5 3. SCOPE

6 The protections conferred by this agreement cover not only confidential  
7 material (as defined above), but also (1) any information copied or extracted from  
8 confidential material; (2) all copies, excerpts, summaries, or compilations of  
9 confidential material; and (3) any testimony, conversations, or presentations by  
10 parties or their counsel that might reveal confidential material.

11 However, the protections conferred by this agreement do not cover information  
12 that is in the public domain or becomes part of the public domain through trial or  
13 otherwise.

14 4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

15 4.1 Basic Principles. A party may use confidential material that is  
16 disclosed or produced by another party or by a non-party in connection with this  
17 case only for prosecuting, defending, or attempting to settle this litigation.

18 Confidential material may be disclosed only to the categories of persons and under  
19 the conditions described in this agreement. Confidential material must be stored  
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1 and maintained by a receiving party at a location and in a secure manner that  
2 ensures that access is limited to the persons authorized under this agreement.

3 4.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
4 otherwise ordered by the court or permitted in writing by the designating party, a  
5 receiving party may disclose any confidential material only to:

6 (a) the receiving party’s counsel of record in this action, as well as  
7 employees of counsel to whom it is reasonably necessary to disclose the  
8 information for this litigation;

9 (b) the officers, directors, and employees (including in house  
10 counsel) of the receiving party to whom disclosure is reasonably necessary  
11 for this litigation, unless the parties agree that a particular document or  
12 material produced is for Attorney’s Eyes Only and is so designated;

13 (c) experts and consultants to whom disclosure is reasonably  
14 necessary for this litigation and who have signed the “Acknowledgement  
15 and Agreement to Be Bound” (Exhibit A);

16 (d) the court, court personnel, and court reporters and their staff;

17 (e) copy or imaging services retained by counsel to assist in the  
18 duplication of confidential material, provided that counsel for the party  
19 retaining the copy or imaging service instructs the service not to disclose any  
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1 confidential material to third parties and to immediately return all originals  
2 and copies of any confidential material;

3 (f) during their depositions, witnesses in the action to whom  
4 disclosure is reasonably necessary and who have signed the  
5 “Acknowledgement and Agreement to Be Bound” (Exhibit A), unless  
6 otherwise agreed by the designating party or ordered by the court. Pages of  
7 transcribed deposition testimony or exhibits to depositions that reveal  
8 confidential material must be separately bound by the court reporter and may  
9 not be disclosed to anyone except as permitted under this agreement;

10 (g) the author or recipient of a document containing the  
11 information or a custodian or other person who otherwise possessed or knew  
12 the information.

13 4.3 Filing Confidential Material. Before filing confidential material or  
14 discussing or referencing such material in court filings, the filing party shall confer  
15 with the designating party to determine whether the designating party will remove  
16 the confidential designation, whether the document can be redacted, or whether a  
17 motion to seal or stipulation and proposed order is warranted. During the meet and  
18 confer process, the designating party must identify the basis for sealing the specific  
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1 confidential information at issue, and the filing party shall include this basis in its  
2 motion to seal, along with any objection to sealing the information at issue.

3 5. DESIGNATING PROTECTED MATERIAL

4 5.1 Exercise of Restraint and Care in Designating Material for Protection.

5 Each party or non-party that designates information or items for protection under  
6 this agreement must take care to limit any such designation to specific material that  
7 qualifies under the appropriate standards. The designating party must designate for  
8 protection only those parts of material, documents, items, or oral or written  
9 communications that qualify, so that other portions of the material, documents,  
10 items, or communications for which protection is not warranted are not swept  
11 unjustifiably within the ambit of this agreement.

12 5.2 Manner and Timing of Designations. Except as otherwise provided in  
13 this agreement, or as otherwise stipulated or ordered, disclosure or discovery  
14 material that qualifies for protection under this agreement must be clearly so  
15 designated before or when the material is disclosed or produced.

16 (a) Information in documentary form: (e.g., paper or electronic  
17 documents and deposition exhibits, but excluding transcripts of depositions  
18 or other pretrial or trial proceedings), the designating party must affix the  
19 word ‘CONFIDENTIAL’ to each page that contains confidential material.

20 If only a portion or portions of the material on a page qualifies for

1 protection, the producing party also must clearly identify the protected  
2 portion(s) (e.g., by making appropriate markings in the margins).

3 (b) Testimony given in deposition or in other pretrial proceedings:  
4 the parties and any participating non-parties must identify on the record,  
5 during the deposition or other pretrial proceeding, all protected testimony,  
6 without prejudice to their right to so designate other testimony after  
7 reviewing the transcript. Any party or non-party may, within thirty days  
8 after receiving the transcript of the deposition or other pretrial proceeding,  
9 designate portions of the transcript, or exhibits thereto, as confidential. If a  
10 party or non-party desires to protect confidential information at trial, the  
11 issue should be addressed during the pretrial conference.

12 (c) Other tangible items: the producing party must affix in a  
13 prominent place on the exterior of the container or containers in which the  
14 information or item is stored the word "CONFIDENTIAL." If only a  
15 portion or portions of the information or item warrant protection, the  
16 producing party, to the extent practicable, shall identify the protected  
17 portion(s).

18 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
19 failure to designate qualified information or items does not, standing alone, waive  
20 the designating party's right to secure protection under this agreement for such

1 material. Upon timely correction of a designation, the receiving party must make  
2 reasonable efforts to ensure that the material is treated in accordance with the  
3 provisions of this agreement.

4 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

5 6.1 Timing of Challenges. Any party or non-party may challenge a  
6 designation of confidentiality at any time. Unless a prompt challenge to a  
7 designating party's confidentiality designation is necessary to avoid foreseeable,  
8 substantial unfairness, unnecessary economic burdens, or a significant disruption  
9 or delay of the litigation, a party does not waive its right to challenge a  
10 confidentiality designation by electing not to mount a challenge promptly after the  
11 original designation is disclosed.

12 6.2 Meet and Confer. The parties must make every attempt to resolve any  
13 dispute regarding confidential designations without court involvement. Any  
14 motion regarding confidential designations or for a protective order must include a  
15 certification, in the motion or in a declaration or affidavit, that the movant has  
16 engaged in a good faith meet and confer conference with other affected parties in  
17 an effort to resolve the dispute without court action. The certification must list the  
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1 date, manner, and participants to the conference. A good faith effort to confer  
2 requires a face-to-face meeting or a telephone conference.

3 6.3 Judicial Intervention. If the parties cannot resolve a challenge without  
4 court intervention, the designating party may file and serve a motion to retain  
5 confidentiality. The burden of persuasion in any such motion shall be on the  
6 designating party. All parties shall continue to maintain the material in question as  
7 confidential until the court rules on the challenge.

8 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED  
9 IN OTHER LITIGATION

10 If a party is served with a subpoena or a court order issued in other litigation  
11 that compels disclosure of any information or items designated in this action as  
12 “CONFIDENTIAL,” that party must:

13 (a) promptly notify the designating party in writing and include a  
14 copy of the subpoena or court order;

15 (b) promptly notify in writing the party who caused the subpoena  
16 or order to issue in the other litigation that some or all of the material  
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covered by the subpoena or order is subject to this agreement. Such notification shall include a copy of this agreement; and

(c) cooperate with respect to all reasonable procedures sought to be pursued by the designating party whose confidential material may be affected.

8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential material to any person or in any circumstance not authorized under this agreement, the receiving party must immediately (a) notify in writing the designating party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this agreement, and (d) request that such person or persons execute the “Acknowledgement and Agreement to Be Bound” that is attached hereto as Exhibit A.

9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a producing party gives notice to receiving parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the receiving parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order or agreement that

1 provides for production without prior privilege review. The parties agree to the  
2 entry of a non-waiver order under Fed. R. Evid. 502(d) as set forth herein.

3 10. NON TERMINATION AND RETURN OF DOCUMENTS

4 Within 60 days after the termination of this action, including all appeals,  
5 each receiving party must return all confidential material to the producing party,  
6 including all copies, extracts and summaries thereof. Alternatively, the parties  
7 may agree upon appropriate methods of destruction.

8 Notwithstanding this provision, counsel are entitled to retain one archival  
9 copy of all documents filed with the court, trial, deposition, and hearing transcripts,  
10 correspondence, deposition and trial exhibits, expert reports, attorney work  
11 product, and consultant and expert work product, even if such materials contain  
12 confidential mater.

13 The confidentiality obligations imposed by this agreement shall remain in  
14 effect until a designating party agrees otherwise in writing or a court orders  
15 otherwise.

16 **IT IS SO ORDERED.** The District Court Executive is directed to file this  
17 Order and provide copies to counsel.

18 DATED September 21, 2023.

19 s/Mary K. Dimke  
20 MARY K. DIMKE  
UNITED STATES DISTRICT JUDGE